

ESTTA Tracking number: **ESTTA421773**

Filing date: **07/26/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Farhad Motavasselan
Granted to Date of previous extension	07/27/2011
Address	9501 WILSHIRE BOULEVARD TWO RODEO BEVERLY HILLS, CA 90210 UNITED STATES
Party who filed Extension of time to oppose	FarhadMotavasselan
Relationship to party who filed Extension of time to oppose	Added a space between first and last names of Opposer.

Attorney information	Joseph A. Mandour Mandour & Associates, APC 16870 West Bernardo Drive, Suite 400 San Diego, CA 92127 UNITED STATES jmandour@mandourlaw.com, blila@mandourlaw.com, kbruce@mandourlaw.com Phone:858-487-9300
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Applicant Information

Application No	85171540	Publication date	03/29/2011
Opposition Filing Date	07/26/2011	Opposition Period Ends	07/27/2011
Applicant	Kim, Phillip 18306 Heather Ave. Cerritos, CA 90703 UNITED STATES		

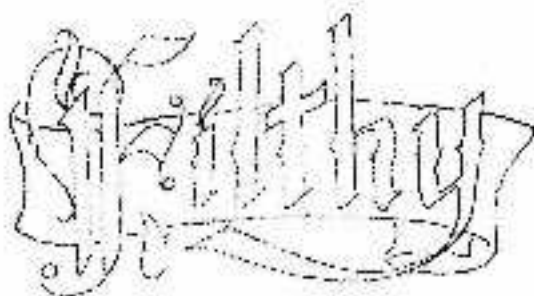
Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Jackets; Pants; Shirts; Shoes
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3267012	Application Date	07/16/2004
Registration Date	07/24/2007	Foreign Priority Date	NONE
Word Mark	FILTHY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/12/08 First Use In Commerce: 1996/12/08 CLOTHING, NAMELY TOPS AND BOTTOMS, DESIGNER GOWNS, COCKTAIL DRESSES, SUITS, SHIRTS, BLOUSES, SWEATERS, FOOTWEAR, HEADWEAR, ALL FOR RETAIL AND WHOLESALE		

Attachments	76602664#TMSN.jpeg (1 page)(bytes) Notice of Opposition FILTHY FRANCHISE 07-26-11.pdf (5 pages)(21148 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ben T. Lila/
Name	Ben T. Lila
Date	07/26/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 85/171,540
Published in the Official Gazette (Trademarks) on March 29, 2011
Mark: FILTHY FRANCHISE

Farhad Motavasselan and Gil Motavasselan,)	
)	
Opposer,)	
)	
vs.)	Opposition No. _____
)	
Phillip Kim,)	
)	
Applicant.)	
_____)	

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Farhad Motavasselan and Gil Motavasselan, both U.S. citizens, with a principal place of residence at Two Rodeo, 9501 Wilshire Blvd., Beverly Hills, California 90210 (hereinafter “Opposer”), believes that it will be damaged by the registration by Phillip Kim (hereinafter “Applicant”) of the above-identified trademark and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. The Applicant seeks to register FILTHY FRANCHISE as a trademark for “*Class 025: Jackets; Pants; Shirts; Shoes*” as is evidenced by the publication of said trademark in the Official Gazette on March 29, 2011.

2. Opposer is the owner of U.S. Trademark Registration No. 3,267,012 for the trademark FILTHY (+Design) for “clothing, namely tops and bottoms, designer gowns, cocktail dresses, suits, shirts, blouses, sweaters, footwear, headwear, all for retail and wholesale in International Class 025”. Opposer has continuously used its FILTHY (+Design) trademark in interstate commerce since at least as early as December 8, 1996 in regard to retail and wholesale clothing.

3. In view of the nearly identical trademarks and identical goods of the respective parties, it is alleged that Applicant’s trademark so resembles Opposer’s trademark, as to be likely to cause confusion, or to cause mistake, or to deceive.

4. There is no issue of priority. Applicant has not claimed a date of first use of its trademark. Opposer’s date of first use in interstate commerce is at least as early as December 8, 1996. Opposer’s use of its trademark has been valid and continuous since said date of first use and has not been abandoned.

5. Opposer’s valid and continuous use of its trademark has developed exceedingly valuable goodwill and recognition.

6. By virtue of its efforts and the expenditure of considerable sums for promotional materials, advertisements, and the quality of its goods, Opposer has gained a valuable reputation for its trademark.

7. If Applicant is permitted to use and register its trademark as specified in the application herein opposed, confusion is likely to result because the trademarks are so similar. Therefore, it is very likely that persons familiar with Opposer's trademark would assume that Applicant was associated with Opposer and any such confusion would inevitably result in damage to Opposer. Furthermore, any objection or fault found with Applicant's goods and/or services would necessarily reflect upon and seriously injure the reputation that Opposer has established under its trademark. Thus, if Applicant is allowed to use and register FILTHY FRANCHISE, the resulting confusion and assumed affiliation will be damaging to Opposer's established goodwill, and Applicant's use of FILTHY FRANCHISE as a trademark will dilute the Opposer's trademark in violation of Section 43(c) of the Trademark Act.

8. Further, if Applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its trademark, and would appropriate the considerable goodwill and recognition that Opposer has established through its exclusive marketing and use. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that the Application Serial No. 85/171,540 be rejected, and that registration of the trademark therein sought be denied and refused.

Opposer has appointed Joseph A. Mandour and Ben T. Lila, Mandour & Associates, APC, 16870 West Bernardo Drive, Suite 400, San Diego, CA 92127, members of the bar of the State of California, as agents and attorneys in the matter of the opposition above-identified, to prosecute said opposition, to transact all business in the United States Patent & Trademark Office and in the United States courts in connection with this opposition, to sign his name to all

papers which may hereinafter be filed in connection therewith, and to receive all communications relating to the same.

Respectfully submitted,

Date: July 26, 2011

By: Ben T. Lila/
Ben T. Lila, Esq.
Joseph A. Mandour, Esq.
Mandour & Associates, APC
16870 West Bernardo Drive, Suite 400
San Diego, California 92127
(858) 487-9300

Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was sent by first class mail, postage prepaid, on July 26, 2011 to Applicant as follows: Phillip Kim, 18306 Heather Ave., Cerritos, CA 90703.

Date: July 26, 2011

/Kim Bruce/
Kim Bruce